

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONALD D. RIFE,

Plaintiff,

CIVIL ACTION NO. 06-CV-15417-DT

vs.

DISTRICT JUDGE VICTORIA A. ROBERTS

COMMISSIONER OF  
SOCIAL SECURITY,

MAGISTRATE JUDGE MONA K. MAJZOUN

Defendant.

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**REPORT AND RECOMMENDATION**

**RECOMMENDATION:** This Court recommends that Plaintiff's Unopposed Motion to Dismiss Without Prejudice (Docket # 5) be **GRANTED** and that Plaintiff's complaint be **DISMISSED WITHOUT PREJUDICE**.

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Plaintiff applied for Social Security Disability Insurance Benefits ("DIB"). (Pl.'s Compl. at ¶ 4). His claim was denied by an Administrative Law Judge ("ALJ") on May 26, 2005. *Id.* Plaintiff thereafter sought review of the ALJ's decision with the Appeals Council on August 17, 2005. *Id.* at ¶ 5. The Appeals Council initially affirmed the ALJ's decision on October 13, 2006, and its decision became the final decision of the Commissioner. *Id.* On December 7, 2006 Plaintiff filed a complaint challenging the denial of his claim for DIB. (Docket # 1). All matters in this case were referred to the undersigned. (Docket # 3).

After Plaintiff filed his complaint, the Appeals Council issued a new Order vacating its previous order from October 13, 2006. (Pl.'s Mot. to Dis. at Ex.1). The Appeals Council thereafter granted Plaintiff's request for review and remanded the case back to the ALJ for further proceedings and for

issuance of a new decision. *Id.* Plaintiff therefore filed the pending motion to dismiss his complaint without prejudice. (Docket # 5). Plaintiff's motion is unopposed. Given the Appeals Council's vacation of its October 13, 2006 Order, which was the premise of Plaintiff's complaint, and the Appeals Council's remand of the case back to the ALJ for the issuance of new opinion, the Court recommends that Plaintiff's Motion to Dismiss Without Prejudice be **GRANTED** (Docket # 5) and his complaint be **DISMISSED WITHOUT PREJUDICE**.

Either party to this action may object to and seek review of this Report and Recommendation within ten days of service. 28 U.S.C. § 636(b)(1); E.D. Mich. LR 72.1(d)(2). Failure to file any specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). The filing of vague, general, or conclusory objections does not meet the requirement of specific objections and is tantamount to a complete failure to object. *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). A copy of any objection must be served upon this Magistrate Judge.

Within ten days of service of an objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than five pages long unless the Court on motion orders the page limit extended. The response shall address each issue contained in the objections specifically and in the order they were raised.

Dated: February 15, 2007

s/ Mona K. Majzoub  
**Mona K. Majzoub**  
**United States Magistrate Judge**

#### **PROOF OF SERVICE**

I hereby certify that a copy of this Report and Recommendation was served upon Donald D. Rife and Counsel of Record on this date.

Dated: February 15, 2007

s/ Lisa C. Bartlett  
 Courtroom Deputy